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Convention on the Elimination of All Forms of Discrimination against Women

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Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women

List of issues and questions in relation to the combined fourth and fifth periodic reports of Switzerland

Addendum

Responses of Switzerland*

[Date received: 14 June 2016]

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* The present document is being issued without formal editing.

Please recycle

Reservations and legal status of the Convention

1. With reference to the Committee's previous recommendations (CEDAW/C/CHE/CO/3, para. 16), please provide updated information about whether the issue of direct applicability of the Convention has been further clarified. With reference to the State party's combined fourth and fifth periodic reports, please also provide an update on the steps taken or envisaged to withdraw the State party's remaining reservation to article 15 (2) and article 16 (1) (h) of the Convention (para. 172).

1.1. There has been **no change** in court practice regarding the direct applicability of the Convention. In a decision in which it found that the refusal to pay a widow's pension to a 45-year-old married woman without children who had given up her professional activity to take care of her sick husband did not contravene any international commitment, the Federal Court took the view that article 11 (1) (e) of the Convention "is a **programmatic type of regulation** which is not directly binding" (ATF 139 I 257 of 23 September 2013, para. 6). Similarly, in a ruling on revoking a residence permit, the Federal Court confirmed that article 16 (1) (c) and (d) and article 5 (b) are **not directly applicable**, because the Convention allows States parties to choose the means they will deploy to eliminate discrimination against women, and therefore in its opinion these provisions are essentially programmatic (ATF 2C_364/2010 of 23 September 2010, para. 3.2).

1.2. The reservation concerns only **a small and ever decreasing** number of marriages that took place before 1988. The legal situation has not changed since, so the reservation remains in place.

Constitutional, legislative and institutional framework

2. It is indicated that the Federal Supreme Court analysed in detail the country's obligations arising from article 2 (a) of the Convention and from the Committee's concluding observations (para. 15). Please clarify the scope of the definition of discrimination and equality applied by the Court and whether it entails a reversal of the Court's previous jurisprudence stating that the "Constitution does not confer any right to establish equality in fact" (see CEDAW/C/CHE/CO/3, para. 17).

2.1. There is no new jurisprudence on this subject. According to the consistent practice of the Federal Court, the general prohibition on discrimination established in article 8 (2) of the Constitution does not form the basis for absolute equal treatment; in other words it does not establish equality in fact. This provision is distinguished from article 8 (3), second sentence of the Constitution. (Equality between men and women under the law), which rests on a **material notion of equality** and mandates all authorities of the federal State to establish equality in fact in society.

3. The Committee notes that an interdepartmental working group under the Federal Office for Gender Equality was created to support the implementation of the Committee's recommendations and that an internal action plan for the Administration was adopted, which sets out objectives and priorities, identifies action to be taken and ensures regular monitoring of the implementation of the

commitments under the Convention (paras. 14 and 16). Nevertheless, it is acknowledged that the implementation of the Convention is limited in the State party (para. 18). Please provide information on the results of the measures taken to implement the Convention and whether any evaluation and remedial action is envisaged. Have any specific measures been taken, or are any envisaged, to address disparities in the implementation of the Convention across the different cantons and communes, as previously recommended by the Committee (see CEDAW/C/CHE/CO/3, para. 20)? In addition, please provide an update on the outcome of the assessment on how to improve the gender analysis of draft legislation (para. 22).

3.1. In collaboration with the Department of Foreign Affairs, the Federal Office for Gender Equality (BFEG) held a seminar on 21 April 2016 devoted to the Confederation's policy on equality, to raise awareness of the importance of the Convention in the different political domains. The seminar, which was attended by representatives from all departments, will be repeated at regular intervals in the future.

3.2. The Federal Office for Gender Equality regularly reminds the competent cantonal services of the obligations arising from the Convention. Nothing new has been organized apart from the coordination and collaboration already in place in the Swiss Conference of Equality Delegates (CSDE).

3.3. The Office fine-tuned an instrument to analyse the impact of legislative projects on gender equality. In 2015, workshops were held to make this known, and a circular was sent to all federal government services. Since August 2015, this instrument has formed an integral part of the aide-memoire on the presentation of messages of the Federal Council, published by the Federal Chancellery. It can be consulted at the BFEG website: http://www.ebg.admin.ch/themen/00007/00709/index.html?lang=fr.

4. Please provide information on the outcome of the analysis of existing anti-discrimination standards in the State party and the study on access to justice in discrimination cases (para. 19) and on whether any remedial action has been taken or is envisaged on the basis of the findings of the study. Please also indicate whether lawyers, judges and all other actors of the justice system are systematically provided with capacity-building with regard to the Convention and the Optional Protocol thereto and whether the Convention has been invoked in courts, apart from the ruling of the Federal Supreme Court in 2011 mentioned in paragraph 15 of the report. If it has, please specify the number, nature and outcome of the cases.

4.1. The Swiss Centre for Expertise on Human Rights (CSDH) submitted its study in the summer of 2015. The Federal Council took cognizance of it on 25 May 2016 and, at the same time, issued its report for parliamentary scrutiny. It is not yet known which measures will be adopted subsequently. To follow up the CSDH study, in April 2016 BFEG mandated an in-depth study to analyse cases of significant discrimination under the equality law.

4.2. The issue of continuous capacity-building for actors in the judicial system will need to be examined in the context of the next reporting cycle.

4.3. There are no statistics on the number of court cases in which the Convention is invoked. Since the 2011 Federal Court ruling, no ruling has gone as far in analysing the applicability of the Convention. The latter was nonetheless quoted in many Federal Court rulings and rulings of the Federal Administrative Tribunal, in different contexts. The domains of law concerned are essentially the Foreign Nationals Act, the right to asylum and the right to social insurance. Some rulings confirm that the Convention is not directly applicable, but has a programmatic nature (see above para. 1.1.). In contrast, the Federal Administrative Tribunal regularly refers, in asylum law dossiers, to the Committee's final observations on the periodic reports of the asylum seekers' States of origin in direct relation to these reports. In two other cases, one on freedom of association (ATF 140 I 201) and the other on the amount of compensation for income loss in the civil liability context (Ruling of the Commercial Court of Zürich of 16 April 2015), the judges referred to the Convention to explain that entities fulfilling statistical tasks are required to combat discrimination against women.

National machinery for the advancement of women

5. Please indicate the measures taken to ensure that the various institutional structures for the advancement of women and gender equality, including the Federal Office for Gender Equality, the Federal Commission for Women's Issues and gender equality offices in cantons and communes, enjoy greater authority and visibility and have adequate human, financial and technical resources to work effectively at all levels, as previously recommended by the Committee (see CEDAW/C/CHE/CO/3, para. 22). What specific measures have been taken to strengthen coordination between all relevant institutional structures and mechanisms at all levels? Please also inform the Committee about the current status of the Swiss Centre of Expertise in Human Rights (para. 12) and indicate whether the State party has taken or envisages taking steps to establish an independent national institution with a broad mandate in the area of human rights, including women's rights and gender equality, in accordance with the Paris Principles.

5.1. In 2014, BFEG obtained additional finance and personnel to promote wage equality; but, like all federal government services, it has had to make cuts in other areas under the Confederation's austerity programme. The equality offices of the cantons and communes are affected by the ongoing austerity programmes in varying degrees. A parliamentary motion calling for the abolition of the Office of Gender Equality in the Canton of Basel-Campagne was rejected by a large majority in the cantonal parliament in November 2015.

5.2. In contrast, the CSDE structures have been strengthened. A committee was appointed to improve coordination between the equality offices and enhance the flow of information. Collaboration between the different institutions and with civil society has also been consolidated (for example the annual meeting of BFEG with umbrella organizations in the area of equality; the biannual meeting of the Swiss Conference of Conciliation Offices, in which BFEG participates, and the equality services of the cantons and communes; regular meetings and joint projects organized by the Western Switzerland Conference on Equality and the Central Switzerland Equality Offices; etc.).

5.3. The Swiss Centre of Expertise in Human Rights (CSDH) was independently evaluated in the spring of 2015. The results of that evaluation show that the Centre mainly conducted studies and organized thematic workshops. The quality of the work was judged to be good, or very good. The Centre has helped strengthen human rights policy; at the same time, it has found it harder to raise awareness among the public at large. The Centre's lack of formal independence was considered the most significant problem of the pilot project. A large majority of individuals questioned were in favour of establishing a permanent institution. In July 2015, the Federal Council decided to extend the CSDH mandate for up to five years. Various alternatives are currently under study to create an institution to succeed the Centre.

6. The Committee notes that the 2011-2015 Legislature Plan is the first to contain a guideline on equality between women and men (para. 5) and that several strategies for the promotion of equality exist at the cantonal level (para. 8). Please provide information on any steps taken to adopt an overall integrated strategy for gender mainstreaming, including gender budgeting, as previously recommended by the Committee (see CEDAW/C/CHE/CO/3, para. 22). Please provide information on results achieved in implementing the 2011-2015 Legislature Plan in relation to gender equality and on whether the State party intends to continue with such guidelines in the next iteration. Please also inform the Committee about the results of the study carried out in 2014 on the progress of the implementation of the action plan on quality between women and men adopted in 1999 by the Federal Council (para. 7). Furthermore, please indicate whether the State party has assessed gender budgeting, including in the cantons, and elaborate on why the Federal Council decided not to implement it (paras. 28-29).

6.1. The Legislature Plan is a crosscutting instrument through which the Federal Council plans its activity. It provides it with a crucial tool to conceive a coherent policy in the domain of gender equality. This sphere is also priority in the 2015-2019 Legislature Plan and in the new Sustainable Development Strategy (SDS) for 2016-2019. It is one of the 16 strategic objectives of the Legislature Plan and one of the nine SDS thematic fields of action. The Legislature Plan constitutes the framework of annual objectives of the Federal Council, and reports on their achievement in its management report. That also concerns the theme of equality.

6.2. Implementation of the 2011-2015 Legislature Plan involves the following measures in particular: a project on complementary measures to attain wage equality (see para. 16); a draft review of the law on joint-stock corporations (see para. 8); the federal programme "Equal Opportunity for Women and Men at Universities of Applied Sciences" and the federal programme "Equal Opportunity for Women and Men at Universities/Gender Studies" (see para. 15). In relation to violence in couple relationships, the measures described in the CEDAW report (paras. 55-56) and paragraph 11 below will be consulted. Measures were also adopted to enforce equality between women and men in federal government and enterprises closely connected with the Confederation (see CEDAW, para. 107 ff).

6.3. The balance sheet of the Plan of Action on Gender, published in October 2014, contains a number of recommendations: http://www.ebg.admin.ch/themen/00007/00070/index.html?lang=fr. The Federal Council and Parliament have already adopted measures in line with these recommendations, in the following spheres in

particular: education (see para. 15); professional life and reconciliation between work and family (see para. 16); health (see para. 17); taxation and families (see para. 21); violence (see para. 11).

6.4. The situation as regards "gender budgeting" has not changed since 2014, either at the federal or at the canton level.

- The Federal Council has adopted a position on the issue of a budgetary management that respects gender equality in several replies to parliamentary interventions. It considers that the cost/utility ratio of this approach is unfavourable to the Confederation: firstly, the Confederation's budget is essentially based on a redistribution in thirds, which means, for example, that the cantons, social insurance institutions or federal administrations are the true benefit providers. A gender breakdown of benefits would be impossible in the case where the recipients are autonomous in terms of fund utilization.
- Secondly, the Confederation's catalogue of tasks includes a large portion of benefits that are by nature pure public goods, in which all of the population benefits without restriction (national defence, foreign relations). The distribution of the benefit of these provisions among the beneficiaries could only be evaluated on the basis of arbitrary hypotheses, at best.
- Thirdly, account would need to be taken of the origin of the funds obtained. In the case of direct federal taxes, the Confederation would be faced with the problem of the individual distribution of the tax burden on couples. In relation to indirect taxes, the distribution by gender could only be done on the basis of hypotheses regarding consumption patterns between men and women.

Extraterritorial obligations

7. According to information before the Committee, there are several examples of activities of Swiss companies operating abroad having a negative impact on the human rights of women. Please provide information on the regulatory framework for industries and companies operating in the State party to ensure that their activities do not negatively affect human rights or endanger environmental, labour and other standards, especially those relating to women's rights. Please further provide information on the measures taken to ensure that the State party's tax and financial secrecy policy does not contribute to large-scale tax abuse in foreign countries, thereby having a negative impact on resources available to realize women's rights in those countries.

7.1. Under article 54 (2) of the Constitution, the Federal Council is committed among other things to **respecting human rights** in its foreign policy. According to article 35 of the Constitution, the fundamental rights must be translated into the country's laws including private, criminal and economic law. The authorities must therefore ensure that fundamental rights have equal effects between private persons (wherever possible). Insofar as enterprises active abroad are legally linked to Switzerland, article 35 (3) of the Constitution is also applicable. In the case of public procurement, if the supply occurs abroad, the supplier must at least respect the fundamental conventions of the International Labour Organization (ILO).

7.2. To maintain a consistent foreign policy, the Confederation is reviewing challenges abroad. Given the political, legal and practical obstacles to extraterritorial policy and jurisprudence, the Confederation is emphasizing the promotion of international conventions and standards, and national measures with an impact on other partner countries and on the activities of businesses abroad. The Confederation is in the front line of support for States in exercising their duty to protect human rights, in the framework of international cooperation. Moreover, the Federal Council expects enterprises to assume their societal responsibility, including respect for the guiding principles of the Organization for Economic Cooperation and Development (OECD) in relation to multinational enterprises, wherever they operate. Switzerland is currently preparing a strategy to implement the United Nations Guiding Principles on Business and Human Rights. This strategy reiterates the obligation on states to protect human rights, which clearly encompasses the Convention on the Elimination of All Forms of Discrimination against Women, which Switzerland has ratified.

Temporary special measures

8. Please provide information on any temporary special measures, including quotas, taken or envisaged by the State party to accelerate the achievement of substantive equality of women and men in all areas covered by the Convention, in addition to a women's quota of 30 per cent for the membership composition of extra-parliamentary commissions (para. 32) and for governing bodies of companies and institutions closely connected with the Federation (para. 110). Please also elaborate on the measures developed by the Federal Council to rectify the continued underrepresentation of women in extra-parliamentary bodies (para. 32) and provide information on the outcome of the debate on women's quotas at the cantonal and communal levels (para. 113).

8.1. The project to revise the law governing joint-stock companies defines thresholds for the representation of the sexes among the senior management of businesses. In large companies quoted on the stock exchange, the Board of Directors must comprise at least 30 per cent women and 30 per cent men. Within management, the representation of each sex must attain at least 20 per cent. If these threshold values are not respected, the business must explain in the annual remuneration report why these ratios were not achieved, and indicate the measures already implemented or envisaged to rectify the situation (principle of "comply or explain").

8.2. In application of the report of the Federal Council of 19 December 2012, proposing measures to improve the representation of the sexes and linguistic communities in extraparliamentary commissions, the department stated that they had adopted various measures to raise awareness at the time of the comprehensive renewal of 2015. Result: the female share rose from 31.5 per cent in 2011 to 39 per cent by end-2015. The number of commissions with a female share of less than 30 per cent has decreased, from 55 to 25.

8.3. With respect to the management bodies of enterprises and establishments closely connected to the Confederation, targeted by the Federal Council decision of November 2013, the profiles required for the boards of directors and of the Institute were thus completed by the target quota of 30 per cent. The trend of gender representation in management bodies is discussed in the annual report on the pay of

senior staff of businesses and establishments, submitted by the Federal Council to the Finance Delegation of the Federal Chambers. Nonetheless, women's representation has already clearly increased.

8.4. For the 2015-2019 legislature, the Federal Council set new target values for the federal Government. These concerned the distribution of the sexes and the proportion of women in the mid-level and senior post categories.

8.5. In certain cantons and towns, the following trends have been unfolding since 2014:

- Following the acceptance in 2014 by the electoral body of the town of Basel of female quotas in the oversight bodies of the public and semi-public sectors (see CEDAW, paragraph 122), the share of women rose to 31.4 per cent on 1 January 2016. The government of this canton has set the goal of attaining a female proportion of 35 per cent in canton administration staff by 2017.
- In March 2015 the Canton of Basel-Campagne issued an ordinance on the composition of the commissions of the Council of State, which must include the required skills and be balanced so as to make the work more effective. An initial report on the application of this ordinance is scheduled for 2016.
- In 2011, the government of the Canton of Valais set the proportion of women in government commissions at 30 per cent. In 2014, this proportion rose to 27.3 per cent, which is more than 6 per cent higher than in 2010.
- The Canton of Geneva is currently implementing a plan of action to promote equality in the canton government, including measures to promote women to responsibility posts and to official commissions.

Stereotypes and harmful practices

9. Please elaborate on the measures taken to eliminate stereotypical images and attitudes regarding the roles of women and men in the family and in society and how those efforts are coordinated among the cantons, as previously recommended by the Committee (see CEDAW/C/CHE/CO/3, para. 26). What has been the result of the analysis of the use and discriminatory consequences of stereotypes in legislation and jurisprudence in the fields of training and work (para. 41)? Please also provide information on the impact of the programmes on gender stereotypes carried out in schools (para. 42) and on whether targeted programmes to encourage further diversification of the educational choices of boys and girls and enhanced sharing of family responsibilities exist in all cantons. Please specify the measures taken to address the stereotyped portrayal of women, including women belonging to minority groups and migrant women, and transgender persons in the media.

9.1. The measures reviewed in the National Programme on Equal Opportunities Between Men and Women show that stereotypes are still present when choosing a profession (para. 15). Parents and teachers need to be more aware, to avoid holding back young people interested in an "atypical" job. Efforts made up to the end of 2014 by the Confederation and cantons to combat stereotypes in vocational training have been continued.

9.2. Close attention is being given to non-sexist formulations when preparing and adapting the legal bases for initial vocational training diplomas and higher vocational training diplomas. The training plans and vocational training campaigns explicitly avoid gender-based stereotypes. The campaign FORMATIONPROFESSIONNELLEPLUS.CH includes:

- "Take technical training, become a dental technician"
- "Learn electronics, become an electrical engineer"

These messages are intended to encourage women to identify with technical professions.

9.3. The new study plan of the German Swiss cantons ("Lehrplan 21") have the objective of "being able to reflect on genders and their roles". Specific teaching material has been developed for this purpose.

There is no overall view of cantonal programmes in this sphere. What is certain, on the other hand, is that there are a multitude of programmes that aim to promote gender-fair education in crèches, school, and in vocational training. A few examples are referred to below:

- **National workshop "Futur" in all genders throughout Switzerland**

For a full day, the boys and girls of 5th to 7th grades are invited to discover the diversity of the world of work. They are encouraged to become interested in jobs that they think are not for them because of their sex. The *Futur* workshop in all genders aims to help expand the horizon of girls and boys at an early stage.

- CSDE project "It's my way!" at SwissSkills Berne 2014.

Dare any task: young people in professional apprenticeships are ambassadors of vocational free choice. They encourage pupils to expand the range of jobs that they consider, including those that are seen as atypical for their sex.

- Awareness raising activities are organized in training forums and education salons in the different regions of Switzerland (for example, central Switzerland, western Switzerland and Basel).
- Mathematics, information technology, natural sciences and technology (MINT): projects to promote a balanced representation of the sexes in the sectors in question and to combat stereotypes in those areas (Geneva, Lucerne).
- Awareness raising activities targeting staff of crèches in the multiple towns and cantons (for example, Basel, Valais and Geneva).

9.4. The website Egalite.ch continues to organize the Women and the media prize, which firstly aims to raise media awareness of inequalities between women and men, stereotyped representations and gender stereotypes; and, secondly, to encourage them to raise the profile of equality issues. Several women belonging to social minorities have seen their contribution rewarded.

10. Please provide information on the results achieved to date in implementing the Federal Act on Measures against Forced Marriages and the federal programme to combat forced marriage during the period 2013-2017 (paras. 68-69). Please also

provide further information and data, disaggregated by age and region, on the prevalence of female genital mutilation in the State party, including on the number and outcome of investigations and court cases, and elaborate on the specific prevention and awareness-raising efforts undertaken to tackle the issue (para. 73).

10.1. Official crime statistics show that in Switzerland, two cases were brought against forced marriage in 2013, three in 2014 and 13 in 2015. Thus far, just one case has resulted in a definitive conviction.

10.2. The Swiss Confederation allocates 2 million Swiss francs to the **Programme of measures against forced marriages** (www.mariages-forces.ch), implemented by the Office of the Secretary of State for Migration (SEM) in collaboration with BFEG. In the framework of that programme, 18 projects have been financed in phase I and 18 more in phase II. Some of the projects aim to raise public awareness, by setting up an exhibition and producing audiovisual backup material. They also aim to raise awareness among professional persons of both sexes, to improve their coordination and offer them continuous training. Numerous professional workers of both sexes from different domains have received training under the programme. As regards pursuing cases, the non-governmental organization (NGO) Fachstelle Zwangsheirat advises the people concerned and the professional workers of both sexes. Other NGOs and canton-level public administration entities also offer counselling to the persons involved in certain regions.

10.3. On 1 July 2012, an explicit criminal rule prohibiting **female genital mutilation (FGM)** (article 124 CP) entered into force. The statistics on criminal convictions for FGM up to 2014 inclusive do not report any conviction handed down under that article. The two rulings on this problem were issued prior to the entry into force of the criminal rule: in 2008, a court in Fribourg sentenced a Somalian resident in Switzerland to a six-month suspended prison term for violation of her duty of assistance and education (article 219 CP), after she had exposed her half-sister — of whom she was the guardian — to circumcision in Somalia. Again in 2008, the Supreme Court of Zürich handed down a ruling in the case of a young girl circumcised in Swiss territory by an itinerant Somalian circumciser. The parents of the young girl were convicted and sentenced to a two-year suspended prison term for causing grave bodily harm (article 122 in conjunction with article 24 CP).

Violence against women

11. Please update the Committee on the steps taken or planned towards the enactment of comprehensive legislation on all forms of violence against women, including the legislative work concerning motion 12.4025 (Keller-Sutter: "To better protect victims of domestic violence") (para. 61). In that context, please explain the progress made in explicitly prohibiting all forms of corporal punishment in all settings, as recommended by the Committee on the Rights of the Child (see CRC/C/CHE/CO/2-4, para. 39). Please also provide information on the results of the respective studies and on any measures taken or envisaged to better support victims of domestic violence, increase the reporting rate of victims of violence, including sexual violence, and develop a threat management system in domestic violence situations (paras. 60-62). Does the State party intend to extend those efforts to other situations of violence? Please expand on the training activities and programmes for parliamentarians, the judiciary, public officials, law enforcement personnel and

health-service providers to ensure that they are aware of all forms of violence against women (para. 63) and provide updated data on violence against women, disaggregated by age, type of offence and relationship between the victim and the perpetrator (para. 53). In addition, please also indicate the steps taken to ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence?

11.1. Switzerland refers to the draft law on improving protection for victims of violence. Various amendments to civil and criminal law should help better protect the victims of domestic violence and harassment. To enhance the effectiveness of the regulation on protection against violence established in article 28b of the Civil Code (CC) the Federal Council proposes to abolish certain procedural constraints identified in the evaluation of that regulation. It is also expected to no longer charge procedural expenses based on article 29b CC to the victims, and to abolish reconciliation procedures in all cases. With a view to alleviating coordination problems, the judge is invited to communicate his or her decision to the criminal prosecution authorities, to the competent authorities for the protection of children and adults, to the cantonal service responsible for intervening in cases of crisis and all other persons potentially concerned. The Federal Council also intends to create a legal base enabling the judge to require an electronic bracelet or ankle device be attached to the perpetrator, to control observance of distancing orders. On the criminal front, the regulation governing the closure of criminal proceedings in cases of simple bodily harm, repeated violence, threats, or constraints in couple relationships is expected to be revised. The following amendments are proposed in relation to article 55a of the Penal Code (CP), to alleviate pressure on the victim. Firstly, the decision to suspend the case should no longer depend on the exclusive wishes of the victim. Responsibility for suspending, resorting or closing proceedings should rest with the authorities. They should take into account the behaviour of the accused, specifically the fact that he is enrolled in a course on prevention of violence. Secondly, the suspension will no longer be authorized if there is reason to think that the accused has committed further acts of violence or if he has already been convicted for a punishable act against life and bodily integrity, liberty, or sexual integrity against his current or former partner. Thirdly, the victim will be heard again before closing proceedings, and she must confirm her desire to close the case. The amendments proposed make it possible to follow up on motion 12.4025 Keller-Sutter.

11.2. Over the last few years, the Swiss Parliament has made repeated pronouncements on parliamentary action relating to corporal punishment of children. On each occasion it has concluded that the existing laws are sufficient. The new children's law which has been in force since 1978, repealed article 278 CC (RS 210), which provided that "the father and mother have the right to correct their children". The Civil Code in force did not expressly prohibit corporal punishment, but general and unanimous public opinion considers that corporal punishments are no longer, in our time, educational methods that are compatible with the well-being of the child. For this reason, this principle does not need to be enshrined in the Civil Code. It is also not necessary to change criminal law because, since 1990, repeated violence against persons in care, specifically children, has been routinely prosecuted. Wilful bodily harm is prosecuted officially in all cases. This regulation does not mean that a single, one-time correction would be authorized. It is based

essentially on the idea that any penal procedure within a family endangers the balance that prevails in it and could be harmful to the child. A developed child and youth assistance system, combined with measures of active awareness-raising to change the point of view and behaviour of the persons concerned, would have much better results than enshrining a prohibition on corporal punishment in the law. Nonetheless, it is worth noting that in 2015 a new parliamentary motion on the subject was tabled (motion 15.3639 Galladé "Abolition of corporal punishment"). This has not yet been discussed by the National Council.

11.3. On 5 May 2015, the National Council adopted Motion 14.4026 Amarelle "Medical procedures in cases of domestic violence. Cantonal policies and practices and timeliness of an explicit mandate in LAVI", and Motion 13.3441 Feri "Treatment of threats arising from domestic violence". The work is ongoing. Following Motion 09.3878 Fehr "Reporting and dissuasion go hand in hand", an external mandate was conferred on the feasibility and costs of establishing a **standard telephone number for victims** (victims as defined in the Federal Act on Assistance for Crime Victims — LAVI). The report is expected in February 2017. LAVI has recently been evaluated (report dated December 2015). The experts issued 30 recommendations for the cantons or Confederation, or both. These recommendations are being considered and could result in measures such as a legislative review or new recommendations from the Swiss Conference on LAVI Liaison Offices. LAVI makes it possible to finance training for staff of the consultation centres, court personnel, police officers and other individuals responsible for assisting victims.

11.4. Services providing **assistance to victims of offences** target not only persons suffering domestic violence, but all victims of offences as defined by LAVI. Similarly, the threat management services that exist in certain cantons cover all threats against individuals, not only in cases of domestic violence.

11.5. The draft federal bill on improving protection for victims of violence mentioned above aims to complete article 28b (4) of the Civil Code, by **mandating training for persons responsible for protection against violence** in cantonal offices. The National Conference on Domestic Violence organized each year by BFEG contributes to awareness raising and training to combat the different forms of violence against women. The 2015 edition was devoted to the protection of children and adults in a context of domestic violence. This year, the conference will be devoted to work with perpetrators of violence, of either sex.

11.6. The **Istanbul Convention** was signed by Switzerland on 11 September 2013. Ratification work is ongoing.

Trafficking and exploitation of prostitution

12. Please provide information on the scope and content of the National Action Plan against Trafficking in Human Beings for the period 2012-2014, as well as the results of its implementation and whether the State party has adopted or plans to adopt a new action plan (para. 45). In the light of the Committee's previous recommendations (CEDAW/C/CHE/CO/3, para. 30), please also elaborate on the assistance and services provided to victims of trafficking, in particular on the resources allocated, whether additional services have been established in all cantons and how effective coordination is ensured. Moreover, the State party indicates a

paradigm shift in cases of suspected trafficking, stating that victim protection takes precedence over the implementation of measures under the Foreign Nationals Act (para. 47). Please elaborate on the applicable legal framework in that regard and on the measures taken to ensure uniform and consistent practices in all cantons.

12.1. The National Plan of Action against Human Trafficking 2012-2014, was produced by the 18 services and organizations that are members of the Office for the Coordination of the Fight against Human and Migrant Trafficking (SCOTT). It sets the priorities, defines the global strategy against human trafficking (THE) in Switzerland, and specifies which federal and cantonal services have the chief responsibility for implementing its 23 measures. These measures revolve around four strategic hubs: prevention, criminal prosecution, protection of victims and partnership. Of the 23 measures envisaged by the 2012-2014 National Plan of Action, 17 have been implemented, one has been redefined, three measures are still being implemented, and two have had to be postponed but will be taken up again in the next National Plan of Action. Between 1 April 2014 and 14 October 2015, Switzerland was evaluated by the Council of Europe on its implementation of the Council of Europe Convention on Combating Human Trafficking. On 30 November 2015, the Committee of the Parties to the Convention sent recommendations to Switzerland. SCOTT is drawing on these recommendations to prepare the next National Plan of Action, which should be adopted at end-2016.

12.2. In Switzerland, various mechanisms provide funding for specialized assistance to victims. The counselling and care activities mandated in the legislation (LAVI) are paid for by the cantons. A compensation payment is formed by a base amount for non-imputable provisions and a forfait per person attended. Provisions that go beyond this assistance to victims prescribed by the law are partly paid for or subsidized by the State (Confederation, cantons, communes). Moreover, organizations providing assistance to victims are financed by private donors, partner organizations and fees paid by their members. Following the entry into force on 1 January 2014 of the Ordinance on Measures to Prevent Human Trafficking Offences, supplementary assistance could be agreed upon with NGOs specializing in assistance to trafficking victims. In German-speaking Switzerland, the FIZ is the main organization providing specialized assistance to women victims of human trafficking. In 2014, FIZ activities in the sphere of assistance to victims of human trafficking were over 90 per cent financed from public funds. In western Switzerland, a new organization specialized in assisting victims of human trafficking (Astrée) was created in October 2014. This organization is wholly financed by public funds, mostly obtained from the Canton of Vaud, and on a subsidiary basis from the Confederation. In November 2014, the western Swiss cantons and Tessin created a Latin inter-cantonal mission with specific responsibility for coordinating assistance to human trafficking victims.

12.3. The legal provisions contained in article 30 of the Foreign Nationals Act (LEtr), along with articles 35, 36 and 36a of the Ordinance on Admission, Stay and Exercise of a Gainful Activity (OASA), make it possible to regulate the stay of human trafficking victims. Under article 35 of OASA, if there is reason to believe that a foreign national, whose stay in our country is irregular, is a victim or a witness of human trafficking, the cantonal authority with responsibility for foreign nationals grants the person a period for recovery and reflection, during which the individual in question can rest and decide whether he or she is willing to continue

collaborating with the authorities. During that period, no significant enforcement measure under the Foreign Nationals Act is applied. The length of the recovery and reflection period set by the cantonal authority depends on the case in question, but is at least 30 days. Moreover, victims of human trafficking can be granted authorization to stay for criminal prosecution purposes (article 36 of OASA), or on the basis of their personal situation (specific case, articles 31 and 36 of OASA). To promote uniform practice among the cantons, SEM issued directives in October 2013 and regularly organizes training events in collaboration with SCOTT and the Cantonal Migration Services Association (ASM).

13. Please provide information on the applicable legal and policy framework and on measures currently in place to prevent the exploitation of women and girls in prostitution, including the outcome of the report on how women in prostitution could be better protected against exploitation and trafficking (para. 52). Please also indicate whether measures exist to support women in prostitution who wish to have alternative means of livelihood. In addition, please elaborate on the protective measures taken for women affected by the abolishment of the status of "cabaret dancer" (para. 51).

13.1. In Switzerland, the Ordinance on **Measures to Prevent Prostitution-Related Offences** entered into force on 1 January 2016. This allows the Federal Police Authority to finance measures to prevent crime committed by public or private organizations, in order to protect women who work in the area of prostitution. Lastly, SEM has done work to review the Foreign Nationals Act in relation to assistance for return and regulation of stay in the framework of police enquiries or judicial procedures.

13.2. The abolition of the status of "cabaret dancer" is accompanied by various measures aimed at protecting women. SEM produced a brochure with information on abolition of the status and the possibilities for legal migration in order to strengthen awareness and information in the cabaret dancers' countries of origin.

Participation in political and public life

14. According to information before the Committee, after the federal elections held in October 2015, women comprised only 15.2 per cent of the members of the Council of States and 32 per cent of the members of the National Council, with the proportion of women in the Government at 28.5 per cent. Women's representation is at similar levels in cantonal parliaments and governments. In the light of the Committee's previous concluding observations (CEDAW/C/CHE/CO/3, para. 34), please elaborate on the specific measures taken to accelerate an increase in the representation of women in political and public life, in particular in the Parliament and other decision-making bodies, academic institutions, the diplomatic service and the judiciary at the federal and cantonal levels. Please indicate whether the State party has established benchmarks and specific timetables to achieve those goals. Please also provide information on the outcome of the media analysis regarding women's participation in advance of the federal elections (para. 76).

14.1. Since 2011, the results of the 2015 elections increased the number of women elected to the National Council to 64 (32 per cent of the total). As of 25 April 2016, the proportion of women in the National Council is currently 32.5 per cent (65 women). In a 2014 circular, the Federal Council urgently called on the cantons to, where appropriate, draw the attention of the electoral body to the disparity in the number of seats held by men and women, respectively, and to raise stakeholder awareness of measures to promote the female candidacies envisaged in the "Guide to be used by groups wishing to launch candidacies" published by the Federal Chancellery. The guide explains modalities for a targeted promotion of female candidacies. A separate chapter makes recommendations consisting of structuring electoral lists adequately and supporting the candidates before and during the campaign, by raising their profile in public events and guaranteeing them media presence. Moreover, on the joint electoral platform recently created by the Federal Chancellery, the services of Parliament, the Federal Office of Statistics and the ch.ch website, there is a dossier on "Women and elections". Along with a presentation of historical achievements and statistics, the dossier refers to the project "Vote women!" being run jointly by the Federal Commission for Women's Affairs (CFQS) and by women's associations. The aforementioned platform also has information on the election to the Council of States. Unlike the election to the National Council, this is a **cantonal election** (article 150 of the Constitution); so the cantons have the ultimate responsibility and jurisdiction for adopting measures to promote an increase in the proportion of women on the Council.

14.2. The Judiciary Committee of the Federal Assembly **appoints judges** on a competitive basis. In the general information published on its Internet site, it states that it takes steps to ensure a balanced representation of the sexes in the federal courts. The proportion of women in the Federal Court and Federal Administrative Court has increased significantly in recent years. Of the 38 ordinary judges in the Federal Court, there were 11 women (28.9 per cent) from 2011 to 2014; 13 (34.2 per cent) in 2015; and 12 (31.6 per cent) in 2016. Of the 19 alternate judges of the Federal Court, there were six women (26.3 per cent) from 2012 to 2014, eight (42.1 per cent) in 2015, and nine (47.4 per cent) in 2016. Of the 72 judges of the Federal Administrative Court, there were 22 women (30.6 per cent) in 2012, 24 (33.3 per cent) in 2013 and 2014, 27 (37.5 per cent) in 2015, and 28 (38.9 per cent in 2016). There are also five women (27.8 per cent) among the 18 ordinary judges in the Federal Criminal Court. The last time a judge was elected to the Federal Criminal Court was in 2010.The Federal Patents Court has two ordinary judges (men) and four women out of 38 among its alternate judges (10.5 per cent).

14.3. Women currently represent 32 per cent of **diplomatic staff** and 51 per cent of **consular staff** (at 31 December 2015). Since 2009, the proportion of women has averaged 47 per cent in diplomatic posts and 66 per cent in consular posts.

14.4. The proportion of **women in tertiary colleges** has been growing continuously. The share of female professors in universities rose from 18.3 per cent in 2013 to 20.3 per cent in 2015. The two federal polytechnics have seen a more rapid increase, from 8.9 per cent to 11.2 per cent. Increasing numbers of female professors are heads of research institutions or programmes. Three of the 10 universities have female rectors (May 2016). The Federal Polytechnic of Zurich (EPFZ) also appointed a female rector alongside the president. One of the seven specialized tertiary colleges (HES) is headed by a woman. The proportion of women in tertiary

college management has increased slightly from 15.8 per cent in 2010 to 17.5 per cent in 2014 (according to She Figures 2015: http://ec.europa.eu/research/swafs/pdf/pub_gender_equality/she_figures_2015-final.pdf).

14.5. The results of the media analysis during the 2015 electoral campaign will be published in the autumn of 2016.

Education

15. Please provide updated disaggregated data on the prevalence of sex segregation in vocational education and higher education (para. 83), together with updated information on the measures taken to eliminate it. Please also provide information on the status of implementation, including any results achieved, of the "Equal Opportunity for Women and Men at Universities/Gender Studies 2013-2016" Programme and the Federal Administration's "Equal Opportunity at Universities of Applied Sciences" Programme 2013-2016 (paras. 91-92). Please also elaborate on the findings of the Gender Equality National Research Programme, which has funded 21 projects investigating the causes of persistent discrimination in the family, in the training system and in working life, and any measures taken on the basis of those findings (para. 93).

15.1. Based on the **programme "Equal Opportunity for Women and Men at Universities/Gender Studies 2013-2016"**, the equality delegates prepared a tailor-made plan of action for the University. The plans of action focus on different aspects such as strengthening the vocational careers of women, and establishing equal opportunities in the organization. This mode of proceeding gave a boost to the subject in universities. The success of the cultural and structural change desired is confirmed here and there. The issue of equal opportunities has gained legitimacy and visibility. The proportion of female professors in all universities has also increased (see para. 14.4). The target of 25 per cent women professors has not yet been attained, however. In contrast, the number of women among assistant professors has risen from 30.4 per cent to 34.2 per cent, a positive development. The universities will pursue action plans within the framework of the 2017-2020 federal programme; they are encouraged to allocate more of their own resources to this.

15.2. The federal programme **"Equal Opportunity for Women and Men at Universities of Applied Sciences"** 2013-2016, defines the following four fields of action: 1. Institutionalized equality policy; 2. Staff policy and encouragement of fresh blood; 3. Recruitment and encouragement of students; and 4. Teaching and research. The dimensions of these fields of action involve promoting women in the fields of mathematics, information technology, natural sciences and technology (MINT), and men in the domains of health and social work. Indicators such as the percentage of men and women at all levels of specialized tertiary colleges make it possible to monitor the trend closely.

15.3. The **Gender Equality National Research Programme** has made an overview and analysed programmes, strategies and policy measures aimed at implementing equal opportunity for women and men in four domains: training; the labour market; reconciliation between family life, training and employment; and social security.

– In the **training** area, the greatest progress has been made in terms of equalizing qualification levels between young women and young men at secondary II level and in the universities. Nonetheless, the choice of vocational orientation between the genders has hardly changed: while young women are over-represented in general study sectors at all levels of schooling, young men predominate in the natural and technical sciences. It is proposed that parents, guidance staff and teachers along with councillors of both sexes, encourage boys and girls to follow and develop the interest that they may have, for example for certain games, sports, disciplines or jobs that are "atypical" for their gender, thereby helping to prevent the appearance of stereotypes and to respect the diversity of life projects.

– The finding in terms of the **labour market** is similar: women and men with a profession, function, or job task that is "atypical" in gender terms, are rare. If one considers the activity rate, Switzerland is the European country where economically active women are most numerous. Nonetheless, the programme shows that, despite these great achievements in terms of equality policy, there is a significant pay gap and glaring differences in the trend of real wages between men and women. Apart from wage transparency, **family and vocational life** need to be better reconciled, taking account of individual and family needs and developing continuous training for women.

– It is therefore important to take account of **interdependencies in Switzerland between income, taxes, social transfers and child-care expenses**, to ensure that paid work is as profitable for women as it is for men, and that the distribution of paid and nonpaid tasks can be a matter of choice.

– The example of **middle-aged women who are currently out of work** reflects the fact that they often did not have a chance to pursue vocational training in their youth. Second-chance training makes it possible to make up for this. An educational initiative could help unemployed unskilled persons to obtain a vocational certification and minimal qualifications. Flexible training plans would be needed, particularly part-time, so that unemployed women could gain access to the labour market and to "gender atypical" jobs.

To make further progress on equal opportunities, it is advisable to adopt a global approach to gain impact. While the existing approaches mainly target specific and isolated problems, which are nonetheless considerable, the authors of the programme suggest that future strategies should adopt a crosscutting perspective. This would make it possible to combat stereotypes, adopt a gender-sensitive approach and design an equality policy for all stages of the life-cycle, in which the "atypical" is self-evident.

Employment and economic empowerment

16. Please provide information on the unemployment rate of women and women in precarious work and the employment rate of migrant women and women with disabilities. In view of the persistent gender pay gap (para. 116), please elaborate on the findings of the study on national mechanisms adopted to implement wage parity and the new government measures taken to combat wage discrimination in the State party (para. 129) and provide an update on any steps taken to introduce paid paternity leave (para. 144), as previously recommended by the Committee (see

CEDAW/C/CHE/CO/3, para. 38). Please also provide information on any steps taken or envisaged to ensure that unpaid care work is given appropriate consideration in the draft pension scheme reform for 2020 (para. 149) and to address discrimination against part-time employees in the assessment of invalidity insurance, which affects women for the most part. According to information before the Committee, voluntary efforts to increase the representation of women in decision-making and managerial positions in companies have not had the desired effect. Please indicate whether the measures taken to date to increase their representation have ever been assessed and, if they have, specify the results. In that respect, please also indicate whether there are part-time job possibilities in high-level decision-making positions.

16.1. Since 2010, the difference between the **female unemployment rate** and the rate among men has almost vanished in Switzerland (narrowing from +0.8 per cent to +0.1 per cent). While the rate of low wages has increased slightly among men, from 5.2 per cent in 1996 to 5.9 per cent in 2010, the rate for women fell from 23 per cent to 18.4 per cent in the same period. The activity rate among women of foreign nationality, which was 68.4 per cent in 2015, was above that of Swiss women, which stood at 61.7 per cent in 2015. The **Federal Act on the Elimination of Inequalities Affecting Persons with Disabilities** aims to help persons with disabilities participate in the life of society, by helping them to be autonomous in exercising a professional activity. In that regard, major emphasis is being placed on accessibility. Article 5 of the Act provides that the specific needs of women with disabilities must be taken into account in measures taken by the cantons and Confederation to prevent, reduce, or eliminate inequalities. In relation to employment, the framework conditions of the Act include a gender perspective without it being explicitly stated.

16.2. With a view to improving **equal opportunities**, the Federal Council intends to legally require employers to analyse their pay scale at regular intervals and have their analysis verified by an external control body. In November 2015, a project on complementary measures making it possible to attain **wage equality** was sent for external consultation. The Federal Council is likely to decide on the continuation of the work in the summer of 2016.

16.3. On 27 April 2016, Parliament refused to approve a motion (14.415) to create two weeks' paid paternity leave. Thus, legal paternity leave still does not exist in Switzerland. On the issue of **reconciling private and working life**, in September 2015, the government sent a draft amendment of the law on financial assistance for extra-familiar child-care for consultation. It is proposing new financial assistance to encourage better reconciliation between family and professional life. The two priority objectives of these new measures are to reduce child-care costs for parents and to adapt supply to their real needs, particularly for school-age children. The government expects to tap a budget of SwF 100 million to finance these new benefits.

16.4. The current regime of **old age, survivor and disability insurance** already takes account of the unpaid work done to support children or parents who are dependent on health care and assistance. When calculating income, bonuses in respect of educational tasks and assistance tasks can be taken into account. These bonuses are imputed when calculating income.

16.5. Under parliamentary mandate (Motion 12.3960), the government prepared a report (https://www.news.admin.ch/message/index.html?lang=fr&msg-id=57924) on the different methods of assessing disability among persons working part-time. It also analyses the reasons for differential treatment based on the professional status of the insured party and evaluates several alternative tracks. The government is determined to ensure that the exercise of a part-time activity does not impair the right to social insurance benefits. It therefore is proposing to take better account of interaction between gainful activity and family and household tasks: the negative repercussions that expenses related to the exercise of a gainful activity could have on the accomplishment of habitual tasks, and conversely, will be better taken into account. This improvement will be implemented at the time of the next review of the regulation of disability insurance.

16.6. The voluntary measures implemented thus far have not been evaluated.

16.7. Within the federal government, it is possible to hold a part-time post at any level of responsibility. In 2015, 2.7 per cent of people held a high-responsibility post working part-time. Since 2010, all full-time posts and all hierarchical levels are put to tender — as far as possible — at a rate of 80 per cent to 100 per cent. Flexible working arrangements such as part-time and job-sharing are included in the Ordinance on Employees of the Confederation (article 64 (4) OPers; RS 172.220.111.3). Moreover, since 1 July 2013, parents have had the right to reduce their working hours by 20 per cent following the birth or adoption of a child. Working hours must not be below 60 per cent, however (article 60a OPers).

Health

17. It is indicated that the findings of the health survey conducted in 2012 pointed to persistent gender differences in such health determinants as diet, tobacco and alcohol abuse, and health status and risks in the State party (para. 155). Please provide information on any measures taken to address those differences and include specific information on the health needs of women with disabilities. Please also supply information on whether age-appropriate education on sexual and reproductive health and rights is provided systematically in all cantons. Please also inform the Committee about the prevalence of HIV/AIDS among women in the State party and the measures taken to address the issue. Furthermore, please provide information on the measures taken to ensure that transgender persons are not forced to undergo involuntary medical treatment, such as hormonal or surgical sterilization, as a requirement for legal gender recognition and on the costs and reimbursement scheme for gender reassignment treatment.

17.1. In the area of health, the specific measures targeting persons with disabilities are also focused on accessibility, without gender distinction. These are general obligations that aim to ensure that persons with disabilities have equal access to all health services. The Federal Bureau on Equality for Persons with Disabilities provides financial assistance to various projects, including some in the health sphere; and it targets women with disabilities in particular. For example, there is an ongoing project in the Canton of Basel-Ville, for access to sexual health counselling services by persons with disabilities. Based on the example of sexual health, the project aims to highlight access barriers to counselling and propose solutions making it possible to facilitate access to counselling. Counselling services on contraception or pregnancy are specially designed for women with disabilities.

17.2. **Sex education** has also formed part of compulsory school programmes for many years. Sensitive contents are addressed at the different school levels in a way that is adapted to the pupils' age (kindergarten and preschool level: for example, protecting oneself against aggression; middle levels: knowing your body; higher level: sexuality, pregnancy, sexually transmissible diseases, love, living as a couple). The courses are taught by teachers with the necessary sensitivity and professionalism, and are often given by specialists.

17.3. There are no data on **HIV prevalence among women** in Switzerland. In contrast, major support is given to specific prevention measures targeting persons from countries with high levels of prevalence that are most affected by HIV. Among heterosexual persons infected by HIV between 2008 and 2014, 30 per cent to 40 per cent were women from such countries. The work done in the field by mediators and community interpreters, among others, has made it possible to try and reach these target groups.

17.4. In a legal notice dated 1 February 2012 (www.bj.admin.ch/dam/data/bj/gesellschaft/zivilstand/dokumentation/praxis/praxis-2012-02-01-f.pdf), the Federal Civil Status Office asked the cantonal authorities not to require **surgical sterilization** or the construction of genital organs of the opposite sex as a prior condition for legal sex change. Adopted by the European Court of Human Rights (ruling of 10 June 2015, Y.Y. c. Turkey) this notice legal notice is being imposed in practice. At the present time, consideration is also being given to transposing these principles in the law to establish a simple and rapid sex change procedure.

Rural women, refugee and asylum-seeking women and other disadvantaged groups of women

18. In line with its general recommendation No. 34 (2016) on the rights of rural women, please update the Committee on the results of the 2015 report focusing on women's economic, social and legal status in the agricultural sector and any measures taken or envisaged to address the Committee's previous concluding observations on the situation of rural women in the State party (CEDAW/C/CHE/CO/3, para. 40).

18.1. The report of the Federal Council is expected to be published in 2016.

The analysis of **economic, legal and social protection benefiting women in agriculture** shows that there are no global loopholes in the legislation. In detail, it would be wise, but not urgent, to make certain amendments in relation to divorce. The study on "Women in agriculture", conducted in 2012, has revealed a deficit in awareness and information. A campaign titled "Women and men in agriculture. Keys to living in harmony" was implemented in 2013/2014 to overcome this deficit. The aim of improving statistical data on women in agriculture has been globally attained by the addition of a module in the complementary survey performed in 2013 for the census of agricultural enterprises.

19. The report is silent on the situation of asylum-seeking and refugee women and girls in the State party. Please provide information on measures taken to guarantee compliance with the international obligations of the State party towards women and girl refugees and asylum seekers, including the protection of their fundamental

rights and the provision of basic services, and training and guidelines for law enforcement officials and border guards on their gender-sensitive treatment, at all stages of the asylum procedure.

19.1. As regards the legal bases applicable to women refugees and the two decisions of principal of the Swiss Asylum Review Board of 9 October 2009, see the 2012 mid-term report (paragraph 4.2.3). In addition to the jurisprudence invoked in the mid-term report relating to article 3 (2) LAsi, SEM has developed a practice on gender-related persecution in line with the notion of "belonging to a specific social group", which is one of the reasons for asylum listed in article 3 (1) LAsi. Thus far, the following clusters have been taken into account: female genital mutilation, domestic violence, discriminatory legislation, forced marriages, honour crimes, forced sterilization, and sexual orientation/gender identity. While affiliation to this group is admitted, other requirements for recognizing refugee status must also be satisfied (targeted nature, intensity, absence of State protection on the ground and the lack of an alternative to internal flight). In relation to the procedural rules, see also the 2012 mid-term report (paragraph. 4.2.3.). Women account for between 25 per cent and 30 per cent of all asylum seekers, and this figure has been stable for the last 10 years. By 2015, about 9 per cent of the applications filed by women contained a gender-related persecution reason (2 per cent in the case of men). In terms of the rate of recognition of refugee status, the figures show that, over these last 10 years, it is constantly higher among women. Thus, in 2015, the recognition rate for women was 32 per cent, compared to 22 per cent in the case of men. This rate also encompasses recognition on the grounds of family reunion: 68 per cent of women obtain refugee status for this reason and 32 per cent on their own behalf. As for granting temporary admission in the presence of an obstacle to being sent back (unlawfulness or unenforceability), the number of women authorized to stay in Switzerland on these grounds is constantly above the rate for men. For 2013 and 2015, the rate of women temporarily admitted fluctuated between 24 per cent and 40 per cent, while the figure for men was between 11 per cent and 28 per cent. Given the wide ranging knowledge needed by the personnel who handle requests containing the reasons for gender-related persecution, gender training and awareness-raising is of central importance in asylum issues and is regularly provided in SEM. These training events partly have a general focus, particularly in the area of listening techniques or with a view to acquiring medical or psychological knowledge. In addition, awareness-raising workshops on specific issues, such as forced marriage, domestic violence or female genital mutilation, are specifically organized according to needs and situations prevailing in the asylum seekers' countries of origin.

20. The Committee notes the measures taken to encourage the integration of migrant women in the State party (paras. 35-39). In the light of the current social and political context, which is characterized by an increasing number of acts of a racist, xenophobic and Islamophobic nature, please provide information on measures taken or envisaged to combat all forms of discrimination against women belonging to minorities, including Traveller communities and the Yenish, Manush/Sinti and Roma, migrant women and undocumented women, and to ensure their adequate access to training and employment, social security and social services, housing, health and education. The Committee also notes the revision of

the Federal Act on Foreign Nationals in July 2013, providing for the right of victims of marital violence to remain in the State party (para. 65). Please comment on the requirement that the level of violence must reach a certain threshold of severity for the benefits of the Act to apply.

20.1. In 2011, the Federal Council explicitly stated that the **promotion of integration** should accompany the fight against discrimination and the removal of structural and individual obstacles in access to accommodation, work, training and leisure. Since January 2014, this principle is being implemented in the cantonal integration programmes (PIC). Specifically, the cantons must adopt measures to ensure that the victims of racial discrimination can benefit from specialized counselling and that the ordinary structures (schools, hospitals, social services, etc.) are informed, advised, and supported on all matters relating to protection against discrimination. The implementation of PIC envisages measures benefiting all discriminated population groups, including women who are victims of multiple discrimination. Apart from PIC, and pursuant to article 53 (4) of the federal Foreign Nationals Act, the **specific needs of women** are taken into account when implementing integration measures under national programmes and projects (for example mentoring projects, projects to rehouse refugees, etc.). In addition, the SLR regularly finances projects on the theme of multiple discrimination on the grounds of gender and origin (about 50 projects since 2001).

The report **"Racial discrimination in Switzerland"**, published by SLR in 2014, states that the number and type of cases brought before the courts for violation of article 261bis CP has been broadly stable through time. In contrast, cases of online racism are on the rise. To counter this phenomenon, Switzerland participated in the European Council campaign "No hate speech movement" in 2014 and 2015. In the latter year, the Federal Commission against Racism (CFR) launched the campaign "A Switzerland in our colours", which aims to raise public awareness of the issue of racism and protection against discrimination on the Internet, which mainly targets young people. Lastly, the SLR itself also supports projects on racism in the digital media.

20.2. On the issue of **national minorities** (Yenish and Sinti/traveller communities):

- In 2015, the Department of the Interior set up a national working group to improve the conditions of nomadic life and encourage the Yenish, Sinti and Roma culture. The group consists of federal, cantonal and communal authorities, along with representatives of the minorities. From the minorities organizations, there are five Yenish and Roma women among the 14 participants.
- In the founding Council of the Confederation "Assuring the future of Swiss travelling peoples", there are two Yenish women out of a total of five members representing minorities.
- The Federal Culture Office and SLR in 2015 supported the development of a cartoon to raise awareness on the nomadic way of life, intended for use in schools. This project is a result of an initiative originating among Yenish women. They also participate in preparing the project alongside specialists.

– Yenish women who are mothers are included in the dialogue with the Berne school authorities who are developing a project to improve the school education of the children of traveller parents, during the summer months (the "Lernen auf Reisen" project of the city of Berne).

20.3. The criteria used to identify the intensity of conjugal violence are not defined in the law (article 50 LEtr), but from jurisprudence. The competent authorities must therefore respect these criteria when they apply the law. According to the Federal Court, the violence suffered can only be classified as "major personal reasons" (*raison personnelle majeure*) in the sense of article 50 Letr — and thus a case of hardship — if it attains a certain level of seriousness. The violence suffered must involve a certain intensity to establish a right. Conjugal violence can be either physical or psychological; it must, however, be so intense that it seriously affects the victim's physical or psychological integrity, such that a continuation of conjugal life would be intolerable for the victim. A few unfortunate events or developments in the relation are not sufficient to establish a serious case and do not give the right to remain in Swiss territory. If a court concludes that the violence does not reach a sufficient degree of seriousness, this does not in itself mean that the court considers that there was no conjugal violence. Instead it may consider that there were certainly acts of violence, while reaching the conclusion that they were not sufficiently serious to admit a serious case in the sense of the law. The foreign national must present credible evidence of acts of conjugal violence or oppression of which she claims to be the victim. General statements or mention of specific tensions are not sufficient. If the alleged conjugal violence takes a psychological and physical form it is necessary to demonstrate its systematic nature and persistence, and the subjective burden caused to the victim (ATF 138 II 229, cons. 3.2.3). In each specific case, the current rule makes it possible to avoid particularly serious cases of hardship following the break-up of the conjugal relationship. The systematic granting of an authorization to stay, irrespective of the civil status of the spouse that benefits from the family reunion would significantly encourage fictitious marriages, contracted for the sole purpose of fraudulently obtaining the right to stay in Switzerland.

A parliamentary motion on 5 May 2015 (Motion 15.3408) requests the Federal Council to present a report on the practical application of the provisions governing the right to stay of migrants who are victims of conjugal violence. This report is scheduled for 2017.

Marriage and family relations

21. It is indicated that, following amendments of 1 July 2014, joint parental authority, irrespective of the parents' civil status, is the rule in cases of divorce (para. 173). Please indicate whether and how considerations of gender-based violence against women in the domestic sphere are taken into account when ruling on child custody and visitation rights. Please also provide an update on the draft regulations on child maintenance, including whether they address the issue of deficit sharing and establish a minimum level of maintenance, and on the planned amendment to the regulations in force on pension splitting in the event of divorce ("divorced widow problem") (paras. 174-175). In addition, please provide additional information concerning the measures taken or envisaged to establish an individual taxation system for married couples and clarify the content of the Federal

Act on Tax Relief for Families with Children regarding the possibilities of deducting childcare costs for married couples with two incomes, specifying any existing differences between the cantons (para. 25).

21.1. The Swiss Civil Code (CC) establishes the principle whereby **parental authority** serves the good of the child above all (article 296 (1) CC). Domestic violence calls into question the parents' capacity to exercise parental authority in a manner that is compatible with the well-being of the child. This is the reason why it has been decided, having reviewed the governing provisions, to explicitly evoke violence as a reason enabling the judge and the child protection authority to withdraw parental authority from the offending parent. It matters little whether the child him/herself is a victim of that violence or if he or she only suffers indirectly from the violence that one of the parents perpetrates on the other (cf. article 311 (1) chapter 1, CC). Conjugal violence is also one of the reasons that can lead the authority to restrict, refuse or withdraw the right to maintain personal relations with the child (art. 273-275 CC).

21.2. On 20 March 2015, the Federal Assembly adopted an **amended Child Maintenance Act** which will enter into force on 1 January 2017. Under this project, the Federal Council also reviewed the situation of children from low-income families, in which the separation of the parents puts them at risk of poverty. It found that the precarious economic situation of children growing up in single-parent households could be genuinely improved merely by more effective coordination between the contributions of maintenance based on family law and the financial support supplied by the public entity, than in the form of social assistance or food subsidies. It would now be possible to introduce deficit sharing (= income lacking to cover the basic needs of two households after the divorce), and a minimal contribution to child maintenance. The federal legislator does not however have jurisdiction to ensure this coordination, since the law on public assistance is a cantonal preserve. Accordingly, these measures were not proposed.

21.3. On 19 June 2015, the Federal Assembly adopted **an amended version of the Civil Code provisions on the sharing of an occupational pension**. It is not yet known when this revision will enter into force. An important innovation concerns the sharing of pension assets acquired during the marriage, even if one of the spouses has already retired. When one of the spouses is disabled and has not yet reached retirement age, the share owed is calculated on the basis of the hypothetical termination benefit to which that person would be entitled if his or her disability disappeared. If the person receives a disability allowance and is already retired, or if he or she receives an old-age pension, the amount is shared. In this case, the spouse who benefits from the sharing will be granted a lifetime income, which will be directly paid by the pension institution. That will significantly improve the situation of "elderly divorced women", who will no longer lose their right to the income when their former spouse dies.

21.4. For the Federal Council, putting an end to the **discrimination that affected married couples in the area of direct federal taxation** has for long been a political priority of the utmost importance. At the present time, married couples with two high incomes and retired couples with medium or high incomes are still at a disadvantage in relation to persons who cohabit under the same economic conditions. Moreover, the burden between the married couples with one income and

married couples with two incomes is unbalanced. These problems can be resolved with the aid of different joint taxation models (splitting system, or alternative tax calculation), or separate taxation (individual taxation, taxation with an option right). For 2016, the Federal Council has set as an objective from now until the end of August to take a decision in principle on how to eliminate the discrimination that affects married couples with two incomes. Following the chosen model, no new consultation is necessary. In this case, the Federal Council expects to issue a policy statement on the subject by the end of 2016. In the framework of direct federal taxation, it is possible to annually deduct documented outsourced child-care expenses for up to SwF 10,100 per child. Since 2013, under federal law, the cantons are also required to admit a deduction for expenses in respect of extra-family child care up to a maximum amount. The cantons are free to set the maximum amount of this deduction. Following the cantons, the deduction ceiling fluctuates between SwF 3,000 and SwF 19,200 per child (2015 figures). With a view to eliminating the perverse effects of this regulation on activity, the Federal Council also intends to study, by end-August 2016, whether it is better to allow unlimited deductions for child-care as expense necessarily incurred to obtain income, or if the current ceiling on the tax deduction in the framework of direct federal taxation should be raised.